



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/170107

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 12, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on December 23, 2015, by telephone.

The issue for determination is whether petitioner's appeal from an April 2015 application denial was timely filed.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED] ES Supr.

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Trempealeau County.

2. An Institutional/Long-Term Care MA application was filed on the petitioner's behalf on January 20, 2015. Verification of the cash value of life insurance and power of attorney forms was requested, with a due date of February 20, 2015. When that documentation was not timely received, the Department issued a denial notice on February 20, 2015. The denial notice identifies an appeal deadline of *April 7, 2015*.
3. Another Institutional/Long-Term Care MA application was filed on the petitioner's behalf on March 24, 2015. Verification of life insurance cash values and a checking account balance was requested on March 27, 2015, with a due date of April 23, 2015. On April 24, 2015, the county agency sent a written notice of negative action to the petitioner. The negative action was denial of the March application, due to failure to submit all of the requested verification. The denial notice identified an appeal deadline of *June 9, 2015*. See, Exhibit 5, p.5.
4. The petitioner filed another, complete MA application on April 27, 2015. The Department denied that application because it perceived the petitioner's assets to be in excess of the \$2,000 limit. A denial notice was issued on April 30, 2015, with a *June 15, 2015* appeal deadline.
5. The petitioner filed a hearing request that was received by the Division of Hearings and Appeals on November 12, 2015.
6. The Department has no record of an application being filed by the petitioner during the April 30, 2015 (date of third denial) through December 23, 2015 (date of this hearing) period.

### **DISCUSSION**

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by the Department concerning MA must be filed within **45** days of the date of the action. Wisconsin Stat. § 49.45(5); *Income Maintenance Manual* § 3.3.1. A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed **196** days after the date of the last denial (April 30, 2015). Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

The petitioner's representative expressed confusion as to why the applications were denied. It was suggested during the hearing that the petitioner attempt another MA application, this time with the help of a worker at a local Aging and Disability Resource Center (ADRC). For Trempealeau County, the ADRC is located at 36245 Main Street, Whitehall, and for La Crosse County, the ADRC is located at 300 4<sup>th</sup> Street, La Crosse.

### **CONCLUSIONS OF LAW**

There is no jurisdiction as the appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be *received within 20 days after the date of this decision*. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 *and* to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

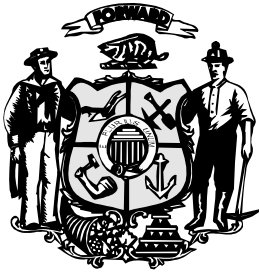
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 20th day of January, 2016

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\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 20, 2016.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability